

## **BILL ANALYSIS**

Senate Research Center  
80R1600 YDB-D

S.B. 55  
By: Zaffirini  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Discount medical plans are non-insurance plans that provide a discount on medical, prescription drug, and dental services, as well as other health-related products and services. With the increasing rate of uninsured persons and the popularity of consumer-driven health care initiatives, consumers are more sensitive to prices and look for more value in health care. Discount medical plans can provide savings for routine care, prescription drugs, vision and dental services, and in some cases physician visits and even surgery.

Discount medical plans may be an uninsured customer's only way to access affordable health care. However, discount medical plans are not insurance plans and do not include shared risk or cost sharing arrangements, exclude pre-existing conditions, or determine benefits, which are included in traditional health insurance. Texas has the most discount medical plans in the nation. However, these plans are currently unregulated. Advertising and marketing of discount medical plans can often make these products sound very much like insurance.

Discount medical plans are not regulated by the Texas Department of Insurance and, as a result, companies offering plans are prosecuted in the Consumer Protection Division of the Office of the Attorney General.

As proposed, S.B. 55 provides certain standards including registration requirements and disclosure that the discount health plan is not health insurance to discourage fraudulent vendors from misrepresenting a discount health plan.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 963.053, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle H, Title 6, Insurance Code, by adding Chapter 963, as follows:

#### CHAPTER 963. DISCOUNT HEALTH PLANS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 963.001. DEFINITIONS. Defines "discount health plan" (plan) and "person."

Sec. 963.002. LIMITED EXEMPTION FROM INSURANCE LAWS; APPLICABILITY OF CHAPTER. Provides that a plan is not an insurer or health maintenance organization and is not in the business of insurance or of health maintenance organization. Sets forth conditions under which a discount health plan holding a certificate of registration applies. Requires the commissioner of insurance (commissioner) and the Texas Department of Insurance (TDI) to administer this chapter in accordance with Chapter 2 (Incorporation of Insurance Companies) and provides that a registrant under this chapter is subject to the provisions of Subtitle B [sic] (text of this Subtitle repealed effective June 1, 2003) of that chapter.

[Reserves Sections 963.003-963.050 for expansion.]

## SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER AND DEPARTMENT

Sec. 963.051. ADMINISTRATION OF CHAPTER. Requires the commissioner and TDI to administer this chapter.

Sec. 963.052. DEPARTMENT STAFF. Authorizes TDI to employ staff to carry out this chapter.

Sec. 963.053. RULEMAKING. Requires the commissioner to adopt procedural rules to implement the registration procedures adopted under this chapter and for the establishment of minimum standards for a plan. Authorizes the commissioner to adopt procedural and substantive rules relating to certain criteria.

Sec. 963.054. FEES. Requires the commissioner to adopt rules to prescribe fees to cover the costs of administering this chapter, including fees for certain certificate and registration items.

Sec. 963.055. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. Prohibits the commissioner from adopting rules restricting advertising or competitive bidding except to prevent false, misleading, or deceptive practices. Prohibits the commissioner from adopting certain rules relating to advertising in prohibiting false, misleading, or deceptive practices.

[Reserves Sections 963.056-963.100 for expansion.]

## SUBCHAPTER C. CERTIFICATE OF REGISTRATION

Sec. 963.101. REPRESENTATION TO PUBLIC. Prohibits a person from representing a plan unless that person is registered with TDI in compliance with this chapter. Requires a person to hold a certificate of registration in compliance with this chapter to represent to the public that a person is a plan.

Sec. 963.102. ISSUANCE OF CERTIFICATE. Requires TDI to issue a certificate of registration to an applicant who applies and pays a registration fee and who meets certain qualifications for registration.

Sec. 963.103. CERTIFICATE DISPLAY; SURRENDER. Requires a person to publicly display the certificate of registration under rules prescribed by the commissioner. Provides that the certificate is the property of TDI and requires the surrender of the certificate upon demand.

[Reserves Sections 963.104-963.150 for expansion.]

## SUBCHAPTER D. RENEWAL OF CERTIFICATE OF REGISTRATION

Sec. 963.151. TERM OF CERTIFICATE. Establishes that a certificate is valid for one year. Authorizes TDI to create a system for the expiration and renewal of certificates. Requires TDI to send written notice before the 30th day of expiration to the certificate holder. Prohibits a person whose certificate is expired from making a representation of a plan until the certificate has been renewed.

Sec. 963.152. RENEWAL OF CERTIFICATE. (a) Requires a person to renew a certificate under terms prescribed by the commissioner.

(b) Authorizes a renewal of certificate by paying a prescribed renewal fee to TDI before expiration.

(c) Authorizes a person whose registration has been expired for less than 90 days to pay 1-1/2 times the renewal fee for certification.

(d) Authorizes a person whose certification has been expired for more than 90 days and less than a year to pay twice the regular renewal fee for re-certification.

(e) Prohibits the renewal of certification to a person whose registration has been expired for more than one year, and requires that person to reapply for certification.

Sec. 963.153. CONTINUING EDUCATION. Authorizes the commissioner to administer continuing education programs for certificate holders. Requires certificate holders to participate in such programs under the requirements of the commissioner.

[Reserves Sections 963.154-963.200 for expansion.]

#### SUBCHAPTER E. PRACTICE BY CERTIFICATE HOLDER

Sec. 963.201. REQUIRED DISCLOSURE. Requires the provider of a plan to disclose to a consumer that the plan is not a health insurance or a health maintenance organization in a manner prescribed by the commissioner.

Sec. 963.202. PROHIBITED CLAIMS. Prohibits a plan from claiming it offers certain discounts unless there is verifiable proof.

[Reserves Sections 963.203-963.250 for expansion.]

#### SUBCHAPTER F. DISCIPLINARY PROCEDURES

Sec. 963.251. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. Requires TDI to deny an application, suspend or revoke a certificate, or reprimand a registered person for certain disciplinary infractions.

Sec. 963.252. INVESTIGATION. Requires TDI to investigate a violator of this chapter and complaints filed against a violator.

Sec. 963.253. PROBATION. Authorizes TDI to place a person whose certificate is suspended on probation. Authorizes the board [sic] to require a person to report to TDI, limit the practice to areas prescribed by TDI, or review professional education until a person reaches a level of skill satisfactory to the board [sic].

Sec. 963.254. HEARING. Provides that a person whose application for a certificate of registration is denied, whose certificate of registration is suspended or revoked, or who is reprimanded is entitled to a hearing before TDI if the person submits to TDI a written request for the hearing. Provides that a hearing is governed by TDI rules for a contested hearing and by Chapter 2001, Government Code.

[Reserves Sections 963.255-963.300 for expansion.]

#### SUBCHAPTER G. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 963.301. ENFORCEMENT PROCEEDINGS; INJUNCTION. Requires TDI, the attorney general, or the district or county attorney for the county in which the violation occurs to bring administrative or judicial proceedings to enforce this chapter. Authorizes the representative of the state to initiate an injunction to prohibit violation of this chapter.

Sec.963.302. CIVIL PENALTY. Authorizes a court to impose a civil penalty for violation of this chapter.

SECTION 2. Requires TDI to adopt rules by June 1, 2008. Makes the requirement to hold a certificate of registration prospective to September 1, 2008

SECTION 3. (a) Effective date: September 1, 2007, except as provided by Subsection (b).

(b) Provides that Section 963.101, Insurance Code, and Subchapters F and G, Chapter 963, Insurance code, as added by this Act, take effect September 1, 2008.